

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

DECISION and ORDER

10-CR-6205 CJS

BETHLYN FELIX

Defendant.

On October 18, 2010, this case was referred by text order of the undersigned to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B), ECF No. 2. On Defendant filed an omnibus pretrial motion, ECF No. 87, seeking, *inter alia*: suppression of evidence of telephone communications intercepted by wire taps for failure to meet the exhaustion requirement; and suppression of tangible evidence seized from her residence of 1154 Finches Corners Road, Martville, New York, pursuant to a search warrant issued by Wayne County Court Judge, Honorable John B. Nesbitt on April 12, 2010, based upon the lack of probable cause due to deficiencies in the eavesdropping warrants. On December 27, 2011, Magistrate Judge Payson filed a Report and Recommendation ("R & R"), ECF No. 126, recommending that the Court deny both Defendant's motion to suppress evidence of telephone communications, as well as Defendant's motion to suppress tangible evidence seized from 1154 Finches Corners

Road. The time has passed for Defendant to file any objections to the R&R, and none have been filed.

Accordingly, for the reasons set forth in Magistrate Judge Payson's Report and Recommendation ECF # 126, Defendant's application to suppress evidence of telephone communications and her motion to suppress tangible evidence seized from 1154 Finches Corners Road are denied.

IT IS SO ORDERED.

Dated: February 21, 2012
Rochester, New York

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge